

BEFORE THE PUBLIC UTILITIES COMMISSION

OF THE STATE OF HAWAII

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In the Matter of)

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Docket No. 2008-0273

Instituting a Proceeding to Investigate)
The Implementation of Feed-in Tariffs.)
_____)

THE SOLAR ALLIANCE'S AND HAWAII SOLAR ENERGY ASSOCIATION'S
COMMENTS ON QUEUING AND INTERCONNECTION PROCEDURES

AND

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THE SOLAR ALLIANCE'S AND HAWAII SOLAR ENERGY ASSOCIATION'S
COMMENTS ON QUEUING AND INTERCONNECTION PROCEDURES

The Solar Alliance and Hawai'i Solar Energy Association (together, "SA/HSEA") hereby respectfully submit the following comments on the proposed Queuing and Interconnection Procedures ("Q&I or HECO proposal") filed on February 1, 2010 by Hawaiian Electric Company, Inc., Hawaii Electric Light Company, Inc., and Maui Electric Company, Limited (collectively, the "HECO Companies").

I. SA/HSEA FORMALLY REQUEST AN ADDITIONAL OPPORTUNITY TO SUBMIT COMMENTS AND INFORMATION REQUESTS.

As an initial matter, SA/HSEA formally request the Commission to: (1) require another filing by the HECO Companies of their Q&I proposal once the proposal is better developed and complete; and (2) afford the parties another opportunity to submit information requests and comments on that subsequent filing. In its present form, the HECO proposal provides only general, preliminary concepts, without the concrete details necessary to enable the parties and Commission to evaluate it. SA/HSEA simply state this fact without intending to ascribe any blame; we recognize, for

example, that the Independent Observer (“IO”) began working on this matter later than originally anticipated. Nonetheless, it is clear that much more work is needed to develop the proposal to a level that will allow meaningful review and approval. The HECO Companies should recognize this. See, e.g., Response to CA/HECO-IR-4 at 1 (acknowledging that the “application checklist is still under development in consultation with the [IO],” and that the parties should “be allowed an opportunity to provide feedback”); Response to HREA-IR-2 at 1 (noting that the “information posted on projects in the queue will be developed in consultation with the [IO],” also with an “opportunity to provide feedback”); Response to HREA-IR-4 at 1 (contemplating “additional clarification . . . in conjunction with future workshops”); Response to SA/HSEA-QI-IR-6 at 1 (referring to the “opportunity to provide feedback at future workshops”).

The manifest purpose of the formally scheduled filings of Queuing and Interconnection Procedures, Information Requests, and Comments was to provide a record for the Commission’s review and approval. The lack of a final, concrete proposal developed with the collaboration of the parties prevents this process from serving its purpose and necessitates another opportunity for the parties to engage meaningfully in these procedural steps, as intended.

II. THE PROCESS TO DATE HAS NOT BEEN COLLABORATIVE.

In its September 25, 2009 Decision and Order (“D&O”), the Commission “direct[ed] the HECO Companies to collaborate with the other parties to craft queuing and interconnection procedures that will minimize delays associated with numerous

potential FIT projects and the various interconnection studies they could require.” Id. at 92-93. SA/HSEA agree with and join in Haiku Design and Analysis’s (“HDA’s”) comment that, contrary to the HECO Companies’ description, the process of developing queuing and interconnection procedures has not been “collaborative,” in the correct meaning of that term of the parties working together to develop a joint or shared proposal. Rather, the HECO Companies have held two sessions in which they reported on the progress of work they have been undertaking on an internal and unilateral basis.

In the first session on November 19, 2009, the HECO Companies presented a lengthy powerpoint. The other parties played no part in developing the material in the powerpoint, but rather viewed it for the first time in the presentation, with limited opportunity to digest the information, let alone comment and “collaborate” on the proposals.

In the second session on January 19, 2010, the IO was present, but at that point had been able to meet only with the HECO Companies and not any of the intervenors. The dominant theme of the discussion was a “conflict of visions” between the HECO Companies and the intervenors over the fundamental design of the queuing and interconnection procedures. In sum, the HECO Companies expressed their preference for control over the type, location, and installation order for proposed projects, and the intervenors expressed widespread dissatisfaction about the subjectivity of the proposal and instead emphasized the need for clarity, certainty, and transparency in the process. This was the first opportunity for the IO to hear the intervenors’ concerns, which he said should be considered.

SA/HSEA understand the expeditious timeframe to develop the proposals may make collaboration difficult. Additionally, the late start by the IO may have also added some complexity, although the HECO Companies still proceeded to develop much of their proposal in the meantime. SA/HSEA, nonetheless, maintain that the HECO Companies have made very little effort to collaborate to date. We remain hopeful that since more work is necessary to further develop the queuing and interconnection procedures, the process going forward will be truly collaborative, or at the very least, the HECO Companies will refrain from using that term to describe the process.

III. THE HECO COMPANIES' SUBJECTIVE "ASSESSMENT CRITERIA" DEFEAT THE PURPOSE OF THE QUEUING AND INTERCONNECTION PROCESS.

SA/HSEA also join in HDA's comment that the HECO Companies' proposed procedures "allow and encourage arbitrary and capricious queuing practices," HDA Comments at 2-4, which is a main concern for SA/HSEA as well. In short, the HECO Companies seek sole discretion to decide queuing order based on fundamentally amorphous and subjective criteria, including which projects "are most ready to proceed" and "will not adversely impact system reliability." See HECO Companies' Attachment A ("Merrimack Report") at 9 of 70. See also id. at 11 of 70 ("reserv[ing] the right to impose additional rules or procedures as necessary"). This is the exact opposite of how a proper queuing system should work. In sum:

- The HECO Companies propose to conduct an initial "assessment" involving an "evaluation and selection process for the FIT queue and the ranking of projects in the queue." Id. This selection and ranking process apparently bears no connection to the time order of filing and can freely override this order.

The HECO Companies do not make clear what the results of their assessment may be. For example, in addition to reshuffling the queue order at the outset, can the HECO Companies kick projects out of the queue outright, or place projects indefinitely on hold?

- The HECO Companies relegate the IO merely to “review[ing]” their determinations before the applicant is notified of the results, and “oversee[ing],” “provid[ing] input,” and “mak[ing] recommendations for improvements” on the HECO Companies’ process. Id. This leaves the HECO Companies with unfettered authority on their actual queuing decisions.

- The HECO Companies propose to make their decisions based on criteria so open and subjective as to preclude any meaningful review and accountability. Particularly problematic is the proposed criterion, “will not adversely impact system reliability.” The HECO Companies have failed to provide any objective, technically grounded criteria for reliability and now seek to defer the development of such criteria until as late as next year. “Reliability” remains a “black box,” a standard-less standard for the HECO Companies to judge, favor, and even disqualify projects.¹

- The HECO Companies also suggest they should be able to modify projects’ rankings on an ongoing basis after their initial rankings, but fail to make this clear. For example, the HECO Companies state that interconnection review studies (“IRSs”) should follow “[i]n general, the first in first out concept,” but with “some consideration” to allowing less complex studies to be allowed to proceed first, and that a “project will hold its reservation in the queue while its IRS is being conducted.” Response to CA/HECO IR-6 at 1; Response to HA/HSEA-QI-IR-10 at 1. They also state that “[p]rojects with less complex interconnection studies would be expected to be prioritized.” CA/HECO IR-6 at 1. While SA/HSEA agree that projects expected to encounter delays (setting aside the arbitrary standards for such delays) should not hold up completion of other undelayed projects,² they oppose any proposal that would allow the

¹ The HECO proposal refers to the involvement of a “Reliability Team” in the queuing and interconnection process, Merrimack Report at 12 of 70, but provides no details on the role of this entity in the process.

² SA/HSEA, however, do raise the concern that allowing projects to proceed ahead of other projects earlier in the queue would be unfair if it resulted in consuming the available space within any applicable penetration limits and subjecting projects earlier in the queue to an interconnection study that otherwise would not have been required.

HECO Companies to continually reshuffle the projects in the queue in their sole discretion.

These problems defeat the entire purpose of queuing and interconnection procedures, which is to promote the fair and orderly implementation of the FIT program and clarity and confidence in the process. SA/HSEA agree with HDA that the HECO proposal will “invite arbitrary actions and potential disputes” and “erode good faith in the process.” HDA Comments at 3-4.

SA/HSEA, instead, propose the following basic principles as an essential foundation for any successful queuing and interconnection system:

- First, the criteria for assessing project applications should be limited to open-shut questions that establish the queuing process as an essentially ministerial exercise. Projects should be allowed to move forward so long as they: (1) are able to meet the specific technical requirements of approved interconnection procedures; (2) meet the specific requirements in the standard FIT application; and (3) do not exceed enrollment caps.
- Reliability issues should be removed from the queuing and interconnection equation and not be allowed to dictate that process. Reliability is being addressed in a separate process, and the standards for reliability remain undeveloped and vague and subject to an additional, likely protracted development timeline proposed by the HECO Companies. Any valid and approved standards for reliability may be applied, if necessary, outside of the queuing and interconnection review context, which again should remain straightforward and ministerial.
- While less complicated projects should reasonably be allowed to proceed to completion without waiting for the completion of projects earlier in the queue, the HECO Companies should not have the discretion to “backburner” or assign lesser priority to some projects versus others. Rather, the HECO Companies’ should process the applications in the order in which they enter the queue, moving each application as far along as they can on their end before turning to the next application in line, then returning to the earlier application once it requires the HECO Companies’ further attention.

Project applicants, of course, should be required to meet minimum requirements of completeness and due diligence, rather than simply filing

shell applications to reserve a queue position. Once assigned a place in the queue, however, applicants should not lose their queue position or be demoted or passed over, so long as they show progress along identified developmental milestones, with reasonable opportunities for extensions. (As with other queuing decisions, the discretion over granting extensions should be minimized, and extensions should be automatic based on a showing of diligent progress.)

IV. THE HECO COMPANIES SHOULD NOT IMPOSE THE BURDEN OF INTERCONNECTION STUDIES ON TIERS 1 AND 2 PROJECTS

More fundamentally, SA/HSEA propose that one of the best ways to facilitate the queuing and interconnection process and the FIT program in general would be simply to exempt Tiers 1 and 2 projects from interconnection studies, or in the alternative, requiring the HECO Companies to conduct any desired studies internally, under a strict timeframe, and without imposing the costs on the applicants. Based on their actual, day-to-day experience working on project proposals, SA/HSEA and others have consistently maintained that the IRS process is opaque, expensive, and time-consuming, with delays extending for months or a year. Instead of needlessly complicating the queuing and interconnection process with such uncertainty and risk, which spawns additional problems such as the HECO Companies' proposal to reshuffle the queuing order at their discretion, the HECO Companies should facilitate the process by removing the IRS step entirely from the Tiers 1 and 2 queuing and interconnection process.

Indeed, the HECO Companies supported projects up to the Tier 2 size limits, stating that "[t]he initial target project sizes are based on utility system integration considerations." Joint Proposal on Feed-in Tariffs of the HECO Companies and the

Consumer Advocate, filed on December 23, 2008 at 9. The HECO Companies also stated that the initial target sizes “do not typically, by virtue of their operating characteristics and size relative to the utility system, require extensive and lengthy interconnection studies or the need for significant interconnection requirements.” Id. The Commission relied on these representations in the written submissions and during the hearing in deciding:

Based on the record in this proceeding, projects in the first and second size tiers should enjoy relatively uniform interconnection costs and should be less likely than larger projects to need Interconnection Requirements Study (“IRS”) examinations. The commission elected to use these tier cutoffs based on the HECO Companies’ arguments and evidence that projects up to those sizes could be rapidly evaluated and integrated into the HECO Companies’ systems at relatively low cost and with fewer reliability concerns. If experience demonstrates that these size limits do not accurately reflect the sizes of projects needing an IRS or do not reflect where economics of scale are realized, the commission will consider adjusting them at the first periodic reexamination.

D&O at 45-46. See also id. at 46 (“encourag[ing] the parties . . . to facilitate the immediate implementation of FITs in [Tiers 1 and 2]”); id. at 68 (“expect[ing] the parties . . . to have a FIT in place for those tiers as expeditiously as possible”).

The Commission did not intend the Tiers 1 and 2 process to be burdened or bogged down with IRSs in this initial period of the FIT program, or to allow the issue to remain an open-ended and uncertain cloud on the program’s implementation. Given the limited need and usefulness of such studies compared to the burdens and uncertainties it imposes on project developers and the queuing and interconnection process, SA/HSEA strongly urge that such studies be omitted from the queuing and interconnection process for Tiers 1 and 2 projects.

V. SA/HSEA QUESTION THE INCREMENTAL RELEASE CONCEPT FOR TIERS 1 AND 2

SA/HSEA also have concerns on the HECO Companies' proposed incremental "release schedule" for the FIT program. See Merrimack Report at 11-12 of 70.³ The concept of "continual" and gradual study could readily serve as yet another source of delay. SA/HSEA also question whether this proposal essentially redraws the FIT program as contemplated by the Commission. SA/HSEA believe that Tiers 1 and 2 can and should be implemented immediately, without further undue delay.

VI. CONCLUSION

In conclusion, SA/HSEA observe that all the problems with the HECO Companies' proposal identified above will serve to bias the likely update of FIT projects downward. Not a single one will even inadvertently increase the subscription level. In the overall context of the HECO Companies' recent filings, this cannot be attributed to mere coincidence, but rather reflects a concerted effort to undermine the Commission's initial goal of the FIT program of providing clean energy for five percent of the peak load for all the HECO Companies.

³ SA/HSEA do not share the HECO Companies' view of the feedback on this proposal as "generally supportive," id. at 6 of 70; rather, the feedback was at best neutral.

Respectfully submitted.

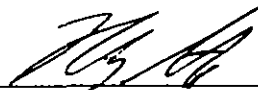
DATED: Honolulu, Hawai'i, March 8, 2010

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DATED: Honolulu, Hawaii,

A handwritten signature in black ink, appearing to read 'R. Saito', is positioned above a horizontal line.

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CERTIFICATE OF SERVICE

The undersigned hereby certifies that, on this date, a copy of the foregoing document was duly served by first-class postage prepaid mail and electronic mail to the following parties addressed as follows:

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